

Minnesota Pollution Control Agency

Environmental Analysis and Outcomes Division

REQUEST FOR COMMENTS

Planned Amendments to Rules Governing Air Quality, *Minnesota Rules*, chapters 7002, 7005, 7007, 7008, 7011, 7017, and 7019, Revisor's ID Number R-4599

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is requesting comments on planned amendments to air quality rules, *Minnesota Rules* Chapters 7002 (Permit Fees), 7005 (Definitions and Abbreviations), 7007 (Permits and Offsets), 7008 (Conditionally Exempt Stationary Sources and Conditionally Insignificant Activities), and 7019 (Emission Inventory Requirements). This rulemaking is referred to as the **Air Toxics Emissions Reporting Rule**. The main purpose of this rulemaking is to establish new rules for air toxics emissions reporting requirements as directed by *Minnesota Statutes*, section 116.062. The MPCA may make rule changes in some or all of these rule chapters. Comments are requested from affected or interested parties. Comments should be submitted writing as describe in the [Comments](#) section below. Comments that were submitted for the original notice are still being considered and will continue to be part of the rulemaking record.

This second request for comments (RFC) is the MPCA's legal notice of its intent to begin rulemaking. This is the first of several opportunities for public comment and input on this rulemaking. At this stage, we do not have a draft rule; we want your feedback to inform us about the ideas described under the Subject of Rules section. Additional information is available on the rulemaking webpage at <https://www.pca.state.mn.us/get-engaged/air-toxics-emissions-reporting>.

Submitting your ideas and information at this early stage in rulemaking allows us more time to address issues that may come up and helps to ensure informed decision-making on our part. If the proposed rules affect you in any way, the MPCA encourages you to participate in the rulemaking process.

Alternative Format/Accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the [MPCA Contact Person](#).

Statutory Authority. *Minnesota Statutes*, section 116.07, subdivision 4 authorizes the MPCA to adopt rules for prevention, abatement, or control of air pollution, and *Minnesota Statutes*, section 116.062 Air Toxics Emissions Reporting authorizes the MPCA to adopt rules to require facilities to submit air toxics emissions reports.

Subject of Rules. The MPCA published a Request for Comments on July 24, 2023, ([48 SR 79](#)) regarding planned rule amendments to require annual reporting on air toxics emissions from permitted facilities (except those with Option B registration permits) located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington counties. Comments that were submitted for the original notice are still being considered and will continue to be part of the rulemaking record.

In that request, the MPCA outlined three main goals for these rule amendments:

- 1) Establish the requirements for air toxics emissions reporting for permitted facilities on an annual basis (Minn. R. 7019.3000 and 7019.3020).
- 2) Identify the air toxics to be reported (Minn. R. ch. 7019).
- 3) Amend permit and reporting processes to align with annual air toxics emissions reporting (Minn. R. ch. 7002; Minn. R. 7007.1300, subps. 3 and 4; and Minn. R. ch. 7008).

The main purpose of this second Request for Comments is to provide notice of intent to repeal certain sections of chapter 7007 that allow a Title V air permittee to assert emergency affirmative defense. This amendment is in response to the EPA's final rule effective August 8, 2023, that removed emergency affirmative defense provisions from the Clean Air Act Title V operating permit program regulations. The EPA determined that the emergency affirmative defense provisions are inconsistent with the Clean Air Act. The EPA set a deadline for states to remove this language from state rules by August 21, 2024, or to seek an extension and remove the language as soon as practicable. The repeal of this language is proposed in this rulemaking because it involves amendments that effect permitted air emission facilities and is an upcoming permanent air rulemaking.

Where to Get More Information. The concept document which includes a detailed explanation about the planned rule amendments, and other information about this rulemaking is available on the rulemaking webpage at <https://www.pca.state.mn.us/get-engaged/air-toxics-emissions-reporting>.

Persons Affected. The amendments to the rules would likely affect regulated air permittees by changing their reporting from voluntary to mandatory. Additionally, in the long-term, these amendments would affect those who live in environmental justice areas of concern, by allowing the MPCA to address the disproportionate impacts of pollution in those areas. A limited number of facilities issued a Title V permit may be affected by the emergency affirmative defense repeal.

Comments. Interested persons or groups may submit written comments or information on these possible rules in writing until **4:30 p.m. on May 1, 2024**. Submit written comments or information to the Office of Administrative Hearings Rulemaking e-Comments website at <https://minnesotaoah.granicusideas.com/discussions>. Any questions about submitting comments via the Rulemaking e-Comments website should be directed to William Moore, Office of Administrative Hearings, telephone 651-361-7893, william.t.moore@state.mn.us. You may view frequently asked questions about the OAH Rulemaking eComments website at https://mn.gov/oah/assets/ecommments-faq_tcm19-82012.pdf. Comments received are public and will be available for review at the OAH Rulemaking eComments website at <https://minnesotaoah.granicusideas.com/discussions> and at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620.

The MPCA will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments. The MPCA does not plan to appoint an advisory committee to comment on the planned rule amendments.

The MPCA does not anticipate that the rule amendments will require a local government to adopt or amend an ordinance or other regulation under *Minnesota Statutes*, section 14.128. Local governments may submit written information to the contrary.

The MPCA requests any information pertaining to the cumulative effect of the rule amendments with other federal and state regulations related to the specific purpose of the rule. Cumulative effect means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the Administrative Law Judge (ALJ) if and when a proceeding to adopt rules is started. The MPCA is required to submit to the ALJ only those written comments received in response to the draft rules after they are proposed. If you submit comments during the development of the rules and want to ensure that the ALJ reviews your comments, you should resubmit the comments after the rules are formally proposed.

Rules Drafts. As stated above, draft rule language is not available at this time. If you are interested in being notified when a draft of the rules is available and of other activities relating to this rulemaking, please register for GovDelivery email updates at

https://public.govdelivery.com/accounts/MNPCA/subscriber/new?qsp=MNPCA_1

MPCA Contact Person. The MPCA contact person is Addison Otto, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; telephone: 651-757-2754, email: addison.otto@state.mn.us. Technical questions on the planned rule amendments should be directed to Hassan Bouchareb, 651-757-2653, email: hassan.bouchareb@state.mn.us. You may also call the MPCA at 651-296-6300 or 1-800-657-3864; use your preferred relay service.

**STATE OF MINNESOTA
POLLUTION CONTROL AGENCY**

Katrina Kessler

This document has been electronically signed.

Katrina Kessler, P.E.
Commissioner

March 25, 2024

Date signed